REMARKS

A non-final Office Action was mailed on April 10, 2007. Claims 1-2, 4-9, 11-18 and 21-26 are pending.

Claims 1-2, 5, 8-9, 12, 15-16, and 25-26 are rejected under 35 U.S.C. §103(a) as being unpatentable over Herz et al. (US 5758257) in view of Deep (US 200310023508). Claims 4,7, 11 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Herz et al. (US 5758257) in view of Deep (US 200310023508), and further in view of Gruber et al. (US 200210073026). Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US 5758257) in view of Deep (US 2003/0023508), and further in view of Prokopenko et al. (US 7188355).

Reconsideration is respectfully requested in view of the arguments submitted herewith.

Applicant respectfully reiterates and continues the arguments set forth in Applicant's responses dated August 25, 2006, and January 19, 2007. Applicant also respectfully asserts, with respect to claims 1-2, 4-9, 11-16 and 25-26 that one skilled in the art would not arrive at such claimed invention through the combination of Herz et al. and Deep.

In the present claims 1, 8, 15 and 16, and the claims dependent thereon, there are three common but separate features. Reproducing claim 1 as an example, such features can be characterized by the active terms "providing," "making" and "reporting," as shown in claim 1:

> *providing a celebrity profile of a celebrity to a user;*
> *making a recommendation to the user for an item, service, and/or event based on the celebrity profile; and*
> *reporting the recommendation to the user through the celebrity while simultaneously displaying an image of the celebrity.*

There is a distinction in the claims between "making" a recommendation and "reporting" a recommendation. "Making" the recommendation is distinguishable from "reporting" the recommendation, which is the affirmative act of the lifestyle recommendation machine in conveying or announcing (see the amendments to claims 8 and 15 herein) the recommendation to the user. The words "making" and "reporting" are two separate and different claim terms with two distinct meanings in two different steps of the claims, and under the cannons of claim

construction, should be interpreted as such. One example of "reporting" is found on page 13, lines 21-28, of the originally-filed specification:

> *Alternatively, the lifestyle recommendation device can report the recommendation to the user through steps 108-116 as discussed above with regard to Figure 1. Specifically, a video or still image of the celebrity can 25 be displayed on the monitor 308 and either an accompanying audio message on the speaker 308 or a displayed textual message also on the monitor 306 can announce the recommendation of the celebrity.*

The above reference to the specification is for exemplary purpose only and does not limit the claims in any particular way. The description should not be imported into the claims.

The teaching of Herz et al., at columns 47-49, is limited to the formation of a recommendation using a celebrity profile. This is equivalent to the Applicant's "making" claim element. Thus, Herz et al. clearly fails to teach or reasonably suggest the affirmative "reporting" element. Herz et al. is quite simply limited to presenting a recommendation, not reporting a recommendation.

The Examiner then asserts that "Deep discloses a personal data file includes a corresponding personal picture provided by that person along with his/her personal profile/history. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz with the teaching of Deep **to have each celebrity profile file contains a picture of the celebrity, as taught by Deep, for the benefit of displaying the picture of the individual along with the recommendation so that the viewer with recognize that the receiving recommendation is based on the profile** of the displayed picture/image of the person, i.e., the celebrity." **(emphasis added)** The Examiner's reliance on Deep fails to appreciate that Deep is primarily concerned with an identification problem within a service brokerage, namely the proper identification of system users by profile, name and picture. The Deep disclosure is, therefore, also related to the Applicant's "making" claim element, not the "reporting" claim element. This is further supported by the Examiner's concluding remarks about recognizing that the receiving recommendation is based on a particular profile. However, an enhanced identification does not in an of itself transcend into a reporting or announcing by the

profiled celebrity. The Examiner fails to appreciate that the combination of Herz et al. and Deep fail to adequately address the Applicant's "reporting" claim elements, as there is nothing in Deep that would teach or motivate one skilled in the art to modify a Herz et al. celebrity profile channel with a report, announcement or a similar affirmative action by the profiled celebrity. Combining Herz et al. with Deep would simply result in an enhanced channel in Herz where the celebrity profile is also identified by the picture of the celebrity. This is the equivalent of an enhanced "making" element from the Applicant's claims. As such combination fails to adequately address the "reporting" elements from the pending claims, Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness, and that all §103(a) rejections based on Herz et al. and Deep should be withdrawn.

Claims 17-22, and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Herz et al. (US 5758257) in view of Deep (US 200310023508), and further in view of Noel Massey et al. (GB 2346527 A). Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et. al. (US 5758257) in view of Deep (US 2003/0023508), and further in view of Noel Massey et al. (GB 2346527 A) and further in view of Prokopenko et al. (US 7188355). The Examiner asserts that Massey discloses a method of generating a virtual actors (page 4, line 26-page 5, line 12). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Deep with the teaching of Massey so the featured image of the celebrity can be generated as virtual celebrity in a realistic way to user thereby providing to user an alternative way to view the celebrity as virtual celebrity.

Applicant respectfully submits that such claims are patentable over the primary combination of Herz et al. and Deep for the reasons discussed above. Applicant further respectfully disagrees with the Examiner with respect to the specific rejection of claims 17-24.

Claim 17 recites:

"substituting a user profile based on explicit and/or implicit directions of a user with a profile of a synthetic celebrity or a fictitious character played by a real celebrity;

making a recommendation for an item, service, and/or event based on the profile of the synthetic celebrity or fictitious character; and

reporting the recommendation to the user through the synthetic celebrity or fictitious character."

Claims 17-18 and 21-24 are based on a profile generated from a **synthetic celebrity or fictitious character played by a real celebrity** (see, for example, page 4, line 11 through page 5, line 15 of the originally-filed specification). Applicant respectfully submits that the Massey teaching of a "virtual actor" fails to provide the basis for the obviousness combination because the "virtual actor" is not a celebrity-type actor, but is instead created using a neural network based parameter system. There is no discussion whatsoever in Massey of representing an identifiable synthetic celebrity or fictitious character played by a real celebrity as required by the claims. The Massey reference is equivalent to any other reference that presents a fictional computer-generated image.

An "actor" by definition is simply a performer. However, an "actor" is not synonymous with a "celebrity," which is by definition a famous or well-known person. One skilled in the art would not be taught or motivated by Massey to generate recommendations based on a profile of a synthetic celebrity or a fictitious character played by a real celebrity because Massey fails to address the "celebrity" aspect of the claimed invention and simply discusses a "virtual actor," which, when viewed in the context of the Massey disclosure, is completely devoid of any connection to a synthetic celebrity or a fictitious character played by a real celebrity. The Examiner's reliance on Massey is misplaced because it is based solely on the use of the term "actor," which use is simply generic and unrelated to a celebrity. This is quite evident with reference to the entire Massey disclosure.

Accordingly, Applicant respectfully submits that one skilled in the art would not consider it obvious to modify Herz in view of Deep with the teaching of Massey to arrive at the claimed invention.

In view of the above amendments and remarks, it is believed that claims 1-2, 4-9, 11-18 and 21-26 are in condition for allowance. However, if for any reason the Examiner should

consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper, not already paid through an EFS-Web filing, may be charged to Deposit Account No. 50-3894. Any overpayment may be credited to Deposit Account No. 50-3894.

Respectfully submitted,

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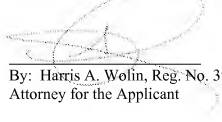

By: Harris A. Wolin, Reg. No. 39,432
Attorney for the Applicant

Please Address All Correspondence to:
Yan Glickberg, Registration No. 51,742
Phone: (914) 333-9618
CUSTOMER NUMBER 24737